

ORDINANCE NO. 2382

AN ORDINANCE OF THE COMMON COUNCIL OF THE TOWN OF GILBERT, ARIZONA, DECLARING THE DOCUMENT ENTITLED THE "2012 AMENDMENTS TO THE CODE OF GILBERT - PROCUREMENT CODE (SECTIONS 2-356 THROUGH 2-366)" AS A PUBLIC RECORD; AMENDING THE CODE OF GILBERT, ARIZONA, CHAPTER 2 ADMINISTRATION, ARTICLE IV PROCUREMENT, DIVISION 2 PURCHASING BY AMENDING SECTIONS 2-356 DEFINITIONS, 2-359 PURCHASING AUTHORITY, 2-360 FORMAL PURCHASE PROCEDURE, 2-362 CHANGE ORDERS, AND 2-363 SURPLUS SUPPLIES AND EQUIPMENT, 15-36, ADDING NEW SECTION 2-365 PROTESTS, AND RENUMBERING SECTION 2-365 FINGERPRINTING OF PROSPECTIVE CONTRACTORS AND EMPLOYEES OF CONTRACTORS AS SECTION 2-366, ALL RELATED TO THE REQUIREMENTS AND PROCEDURES FOR THE PROCUREMENT OF GOODS AND SERVICES BY THE TOWN; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING FOR SEVERABILITY; AND PROVIDING PENALTIES.

BE IT ORDAINED by the Common Council of the Town of Gilbert, Arizona, as follows:

Section I. In General.

That certain document known as the "2012 Amendments to the Code of Gilbert - Procurement Code (Sections 2-356 through 2-366)", three copies of which shall remain on file in the office of the Town Clerk, is hereby declared to be a public record.

The Code of Gilbert shall be amended by adopting by reference that public record entitled the "2012 Amendments to the Code of Gilbert - Procurement Code (Sections 2-356 through 2-366)" which document is hereby adopted and incorporated by reference.

Section II. Providing for Repeal of Conflicting Ordinances.

All ordinances and parts of ordinances in conflict with the provisions of this Ordinance or any part of the Code adopted herein by reference, are hereby repealed.

Section III. Providing for Severability.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of the Code adopted herein by reference, is for any reason held to be invalid or

unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

Section IV. Providing for Civil Sanctions.

Any person found responsible for violating this section shall be subject to the civil sanctions and habitual offender provisions set forth in Section 1-5 of the Gilbert Municipal Code.

PASSED AND ADOPTED by the Common Council of the Town of Gilbert, Arizona, this 16th day of August 2012, by the following vote:

AYES: Cook, Cooper, Daniels, Lewis, Petersen, Ray, Sentz

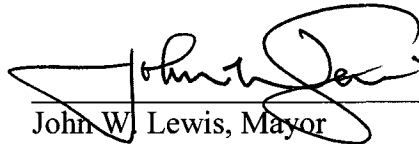
NAYES: None

ABSENT: None

EXCUSED: None

ABSTAINED: None

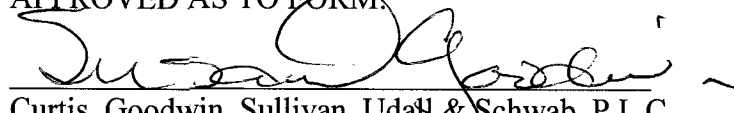
APPROVED this 16th day of August, 2012.


John W. Lewis, Mayor

ATTEST:


Catherine A. Templeton, Town Clerk

APPROVED AS TO FORM:


Curtis, Goodwin, Sullivan, Udall & Schwab, P.L.C.
Town Attorneys
By Susan D. Goodwin

I, CATHERINE A. TEMPLETON, TOWN CLERK, DO HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE ORDINANCE NO. 2382 ADOPTED BY THE COMMON COUNCIL OF THE TOWN OF GILBERT ON THE 16th DAY OF AUGUST, 2012, WAS POSTED IN FOUR PLACES ON THE 23 DAY OF August, 2012.


Catherine A. Templeton, Town Clerk

2012 AMENDMENTS TO THE CODE OF GILBERT - PROCUREMENT CODE (SECTIONS 2-356 THROUGH 2-366)

Sec. 2-356. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings set forth in this section, except where the context clearly indicates a different meaning:

Bid: An offer to sell supplies or services to the town in response to a request for proposals or an invitation for bids.

Bid mistake: A mistake contained in a bid which is clerical or mathematical in nature.

Bidder list: The list of vendors from whom supplies or services may be solicited.

Blanket purchase order: A purchase order issued for one fiscal year to provide authorization for one vendor to supply a specific type of supplies or services.

Construction: The process of building, altering, improving or demolishing any public structure or building, or other public improvements of any kind. It does not include the operation, maintenance or repair of existing structures, buildings, or real property.

Contract: A written agreement with the town for the procurement of supplies or services. The term includes supplemental agreements with respect to any such written agreement but does not include leases for real property.

Contractor: Any person having a contract with the town.

Cooperative purchase contract: A contract previously bid through a competitive process by another governmental entity. Purchases, INCLUDING PURCHASES from the state bid list is OR FROM a PURCHASING cooperative. purchase contract.

~~*Debarment:* The disqualification of a provider of supplies or services to receive invitations for bids or the award of a contract by the town for a specified period of time, not to exceed three years, commensurate with the seriousness of the offense resulting from conduct or failure or inadequacy of performance.~~

Emergency purchase: Procurement when supplies or services are needed for a situation where time is of the essence to provide for the health, safety or welfare of the public.

Formal procurement: The purchase procedure described in section 2-360.

Independent contractors: An entity or a person not employed by the town that provides services to the town pursuant to an independent contractor contract and that meets the requirements established by the Internal Revenue Service for such designation.

Informal procurement: Procedures used for procurement when the formal purchase procedure is not required.

Intergovernmental agreement: An agreement with another public agency pursuant to A.R.S. § 11-951 et seq.

Invitation for bid (IFB): All documents, including those attached or incorporated by reference, utilized for soliciting bids WHERE PRICE IS THE SOLE DETERMINING FACTOR.

Procurement: The purchasing, renting, leasing, or otherwise obtaining of any supply or service. The term includes all functions that pertain to the obtaining of any supply or service, including description of requirements, selection and solicitations or sources, preparation and award of a contract, and all phases of contract administration.

Professional services: The services of lawyers, certified public accountants, auditors, consultants, appraisers, engineers, architects, landscape architects, assayers, geologists, land surveyors and ~~the like~~ SIMILAR OCCUPATIONS INVOLVING SPECIALIZED KNOWLEDGE, LABOR OR SKILL PREDOMINANTLY INVOLVING MENTAL OR INTELLECTUAL RATHER THAN PHYSICAL OR MANUAL SKILLS. Questions regarding whether a service is a professional service shall be referred to the purchasing officer.

PROPOSAL: AN OFFER TO SELL SERVICES OR SUPPLIES OR A COMBINATION OF SERVICES AND SUPPLIES TO THE TOWN IN RESPONSE TO A REQUEST FOR PROPOSALS.

PROPOSER: AN ENTITY OR PERSON WHO RESPONDS TO EITHER A REQUEST FOR PROPOSALS OR A REQUEST FOR QUALIFICATIONS.

Purchase amount: The amount anticipated to be spent during a fiscal year on a same or materially similar item FROM ONE VENDOR.

Purchasing officer: ~~The financial services manager of the town.~~ THE INDIVIDUAL DESIGNATED BY THE TOWN MANAGER TO HOLD THE PRIMARY PURCHASING AUTHORITY FOR THE TOWN.

Request for proposals (RFP): All documents, including those attached or incorporated by reference, utilized for soliciting proposals.

Request for qualifications (RFQ): ~~A document issued ALL DOCUMENTS, INCLUDING THOSE ATTACHED OR INCORPORATED by a requesting department~~ REFERENCE, UTILIZED FOR soliciting information related to the STATEMENTS OF qualifications of providers of a service relevant to performing services for a specific project or purpose.

Responsible bidder or proposer: A bidder or proposer who has the capability to perform fully the contract requirements and the reliability which will assure good faith performance.

Service: The furnishing of labor, time or effort by a contractor not involving the delivery of a specific end product other than reports which are merely incidental to the required performance. ~~this~~ THIS term does not include employment agreements or professional services.

Sole source vendor: A vendor approved in writing by the purchasing officer pursuant to subsection 2-357(b)(3).

SOLICITATION: AN INVITATION FOR BID (IFB), REQUEST FOR PROPOSALS (RFP) OR REQUEST FOR QUALIFICATIONS (RFQ) ISSUED BY THE TOWN.

Specification: Any description of the physical or functional characteristics or nature of a supply or service. The term may include a description of any requirement for inspection, testing, or preparing a supply or service for delivery.

State bid list: The compilation of competitive contracts awarded, issued and maintained by the State of Arizona.

State's vendor list: The list of vendors offering supplies or services that is maintained by the State of Arizona.

SUBMITTAL: A STATEMENT OF QUALIFICATIONS SUBMITTED TO THE TOWN IN RESPONSE TO A REQUEST FOR QUALIFICATIONS.

Supplies: All personal property.

Using or requesting department: Any department of the town using or requesting supplies or services.

SEC. 2-357. - APPLICABILITY.

- (a) *Generally.* This division applies to all expenditures of public funds regardless of source or whether the purchase was made directly or indirectly by the town, including purchases using state and federal

assistance monies, except that nothing in this division shall prevent the town from complying with terms and conditions of any grant, gift, bequest, or applicable regulatory guideline.

- (b) *Exceptions.* The following procurements are exempt from the bidding requirements of this division to the extent set forth below.
 - (1) Construction contracts unless the construction contract is exempt from the bidding requirements of A.R.S. § 34-201.
 - (2) Cooperative purchase contracts where the purchasing officer has determined in writing that a separate bidding process is not likely to result in a lower price for such supplies or services.
 - (3) Sole source vendor contracts where the using department has established to the satisfaction of the purchasing officer that the vendor is the only known supplier of a supply or service on the terms and conditions required by the using department.
 - (4) Professional services contracts.
 - (5) Intergovernmental agreements.
 - (6) Emergency purchases where the purchasing officer makes a determination that an emergency purchase is necessary and the requesting department has filed a purchase requisition marked "emergency" with the purchasing officer no later than noon the next regular town business day or after the emergency has been stabilized containing a complete written explanation and signed by the department director.
- (c) *Authority of purchasing officer to act in the best interest of the town.* Nothing in subsection (b) shall preclude the town from soliciting bids or proposals for the procurements listed in subsection (b) if the purchasing officer or council deems it to be in the best interest of the town to do so.
- (d) *CONTRACTS AND APPROPRIATIONS RECOMMENDED BY THE COMMUNITY SERVICES COMMITTEE.* NOTWITHSTANDING ANYTHING IN THIS ARTICLE TO THE CONTRARY, ALL CONTRACTS AND APPROPRIATIONS RECOMMENDED BY THE COMMUNITY SERVICES COMMITTEE SHALL REQUIRE APPROVAL BY THE COUNCIL, REGARDLESS OF THE CONTRACT AMOUNT.

Sec. 2-358. - General purchasing requirements.

- (a) *Approved standard contract forms.* The town attorney shall prepare standard contract forms for use in the procurement of supplies and services. The town's standard contract forms shall be used whenever possible and practical. Any revisions to the terms of standard contracts shall be first approved by the town attorney.
- (b) *Failure to follow purchasing procedures.* No town employee shall order the purchase of supplies or services or make contracts on behalf of the town other than through the procedures set forth in this division and the town shall not be bound by any contract made in violation of this division.
- (c) *Contracts.* For purposes of determining whether a procurement may be made through an informal procurement or through a formal purchase procedure, the value of the contract shall be based on a fiscal year.
- (d) *Purchase of multiple items.* Purchases of multiple items shall not be segregated for the purpose of avoiding the requirements of this article.
- (e) *Blanket purchase orders.* Individual purchases pursuant to a blanket purchase order shall be supported by receipts, invoices or other documents required by the purchasing officer.
- (f) *Independent contractors.* No contract with an independent contractor shall be entered into until the ~~financial services manager~~ PURCHASING OFFICER has determined in writing that the criteria for independent contractors has been met.
- (g) *Grants.* No grant application shall be submitted without approval of the council. No grant shall be accepted without approval of the council. The council may, at its discretion, approve a grant application and acceptance of the grant concurrently, provided however, that if the terms of the grant established at the time of application and the final grant award are not substantially the same, the acceptance of the grant award shall require separate approval of the council.
- (h) *Written contracts.* All contracts of the town shall be in writing.

SEC. 2-359. - PURCHASING AUTHORITY.

(a) ~~The financial services~~ TOWN manager shall be DESIGNATE the purchasing officer of the town. THE PURCHASING OFFICER MAY DELEGATE THE POWERS AND DUTIES SET FORTH IN THIS SECTION. The purchasing officer shall have the following powers and duties:

- (1) To procure and contract for supplies and services needed by any using department, in accordance with purchasing procedures as set forth in this division.
- (2) To adopt rules and regulations for the internal management of procurements in accordance with this division.
- (3) To designate brand names which the town uses on a regular basis, so long as such designation is for the purpose of maintaining compatibility of like supplies and the efficiencies associated with use of compatible supplies.
- (4) ~~To debar vendors. When debarment is recommended, a statement of the reason for placing the vendor on debarment shall be prepared by the purchasing officer in writing and transmitted to the town attorney. Upon the town attorney's approval, the purchasing officer shall notify the vendor by letter containing an option to appeal and appear before a review committee consisting of the purchasing officer, town manager, and the using department.~~
- ~~(5)~~(4) To supervise the inspection or testing of deliveries of supplies or services to determine their conformance with specifications.
- ~~(6)~~(5) To prepare in cooperation with using departments written standards and specifications for supplies and services.
- ~~(7)~~(6) To establish and maintain the town's bidder list, or designate that the state's vendor list shall be used as the town's bidder list.
- ~~(8)~~(7) To procure and contract for materials, supplies and services as set forth in an intergovernmental agreement, even if the procedures set forth therein differ from the procedures set forth in this division.
- ~~(9)~~(8) To make a determination that a cooperative purchase contract is ~~not~~ likely to result in a lower price for such supplies or services.
- ~~(10) — The financial services manager may delegate the duties set forth in subsections (a)(1), (5), (6), and (8) to directors of using departments.~~

SEC. 2-360. - FORMAL PURCHASE PROCEDURE.

- (a) Procurement of supplies and services when the estimated total annual value will exceed \$50,000.00 shall be made using either ~~formal~~-written requests for proposals (RFP), REQUESTS FOR QUALIFICATIONS (RFQ) or invitations for bids (IFB), except as otherwise provided in this division. ~~Council approval shall be obtained prior to advertising for procurement of supplies and services when the estimated total annual fiscal year cost will exceed \$50,000.00.~~ The using department's director, with the approval of the purchasing officer, shall determine which procurement method (RFP, ~~or~~ IFB OR RFQ) will be most practical and advantageous to the town for the procurement of supplies or services.
- (b) General:
 - (1) Except as provided in subsection (2), notice of an IFB~~or~~, RFP OR RFQ shall include a description of the supplies or services, shall state where the IFB~~or~~, RFP or RFQ forms and specifications may be obtained, ~~and~~ the deadline for submitting a bid~~or~~, proposal, ~~time or place~~ SUBMITTAL, AND THE LOCATION for opening the bids~~or~~, proposals OR SUBMITTALS. The notice of an IFB ~~or~~, RFP OR RFQ shall be published pursuant to procedures set forth in A.R.S. § 39-204. Bids ~~or~~, proposals AND SUBMITTALS shall also be solicited from all prospective suppliers whose names are on the town's bidder list relevant to the scope of work.
 - (2) If a request for ~~qualifications~~-PROPOSALS has been issued pursuant to subsection (d)(1) below, notice of ~~the~~ AN RFP need only be given to proposers that are determined to have the qualifications to perform the required services AND/or provide the required supplies.
 - (3) The purchasing officer or using department director shall have authority to require THAT a bid or proposal guarantee be submitted with any and all bids or proposals, and performance bonds AND PAYMENT Bonds be submitted prior to execution of any contract.
 - (4) Late bids ~~or~~, proposals OR SUBMITTALS shall be rejected and returned unopened to the bidder or proposer.
 - (5) The IFB, RFP or ~~RFP~~-RFQ may be delayed or cancelled by the purchasing officer if the purchasing officer determines it is in the best interest of the town.

- (6) The council shall have the authority, in its discretion, to refuse an award to any ~~vendor~~ BIDDER or ~~contractor~~ PROPOSER who is in default on the payment of taxes, licenses or other moneys due the town at the time set for opening the bid or proposal. All ~~vendors~~ BIDDERS and ~~contractors~~ PROPOSERS must be in compliance, at the time set for opening the bid ~~or~~, proposal OR SUBMITTAL, with all applicable state licensing laws, rules and regulations. A statement shall be included in responses to IFBs ~~and~~, RFPs AND RFQs with a value greater than \$50,000.00 that the ~~vendor~~ BIDDER or ~~contractor~~ PROPOSER is in compliance with this paragraph.
- (7) Awards GREATER THAN \$100,000.00 require the approval of the council. The council may reject any and all bids OR PROPOSALS at its sole discretion. The council's decision is final.
- (8) No contract or procurement shall be subdivided to avoid the requirements of this article.
- (9) Annual contracts for supplies purchased in large quantities may be awarded with delivery and payment for such supplies to be made during the term of the contract.
- (10) If two or more bids received PURSUANT TO AN IFB are for the same total amount or unit price, quality and services being equal, and if the public interest will not permit the delay of ~~re-advertising~~ RE-ADVERTISING for bids, the council shall determine the successful bidder by lot.
- (11) Capital lease purchase or contract purchase agreements shall have their value estimated as the cumulative total value of the contract expense to the town. Operating leases shall be valued at the cumulative total of lease payments for the anticipated rental period or for one year from the start of the lease for long-term items, whichever is less.
- (12) A contract for professional services shall not be awarded TO A person or firm who participates in the preparation OR EVALUATION of a RFP or RFQ for that contract.
- (13) Formal purchase procedures may be waived with approval of the council.

(c) Invitation for bids (IFB):

- (1) An IFB shall be issued and shall include a purchase description and all contractual specifications, terms and conditions applicable to the procurement.
- (2) Bids shall be opened publicly at the time and place designated in the IFB. The amount of each bid, and such other relevant information as may be specified by the purchasing officer or using department's director, together with the name of each bidder shall be recorded. This record shall be open to public inspection after the bid opening. Trade secrets or other proprietary data designated in the bid as such shall remain confidential unless otherwise required by the public records law.
- ~~(3) — Bids shall be evaluated based on the requirements set forth in the IFB. The IFB shall set forth the evaluation criteria to be used. No criteria may be used in bid evaluation that are not set forth in the IFB or this subsection (b).~~
- ~~(4)~~(3) After bid opening, no ~~corrections in~~ CHANGES TO bid prices or other provisions of bids or withdrawal of bids; WHICH ARE prejudicial to the interest of the town or fair competition shall be permitted. All decisions to permit the correction ~~of~~ OF A BID MISTAKE, TO PERMIT withdrawal of any bid, ~~or~~ BASED ON A BID MISTAKE OR, to cancel ~~awards or contracts~~ AN AWARD based on A bid ~~mistakes~~, MISTAKE after bid opening shall be supported by a written determination made by the purchasing officer.
- ~~(5)~~(4) The contract shall be awarded to the lowest responsible and responsive bidder whose bid conforms in ALL material respects to the requirements and criteria set forth in the IFB. In making the determination of the lowest responsible and responsive bidder, the council may consider the following:
 - a. The ability, capacity and experience of the bidder, its employees and subcontractors to perform the contract.
 - b. Whether the bidder can perform the contract promptly, or within the time specified, without delay or interference.
 - c. The quality of performance of previous contracts.

- d. The sufficiency of the financial resources of the bidder to perform the contract.
 - e. The quality and adaptability of the materials, supplies or services to the particular use required.
 - (6)(5) If an award is not made to the lowest bidder, a statement of the reason for not awarding to the lowest bidder shall be given in writing and be placed in the contract file.
- (d) Request for proposals (RFP) AND REQUEST FOR QUALIFICATIONS (RFQ):
- (1) Proposals shall be solicited through an RFP. SUBMITTALS SHALL BE SOLICITED THROUGH AN RFQ. At the discretion of the purchasing officer or requesting department, ~~a request for qualifications (RFQ)~~ AN RFQ may be issued prior to issuance of an RFP ~~where professional services are being solicited. An RFQ shall be.~~ ALTERNATIVELY, AN RFQ MAY PROVIDE FOR A QUALIFICATIONS-BASED SELECTION PROCESS WITHOUT A SUBSEQUENT RFP. RFPS AND RFQS shall be published pursuant to A.R.S. § 39-204. RFPs and RFQs ~~and RFPs~~ shall require the proposer to disclose any actual or potential conflicts of interest the proposer may have in performing the required services.
 - (2) Proposals AND SUBMITTALS shall be opened publicly at the time and place designated in the ~~request for proposals~~ RFP OR RFQ. The name of each proposer shall be publicly read and recorded. Trade secrets or other proprietary data designated in the proposal as such shall remain confidential, unless otherwise required by the public records law.
 - (3) Discussion may be conducted with responsive proposers who submit proposals determined to be reasonably susceptible to being selected for award for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Proposers shall be accorded fair treatment with respect to any opportunity for discussion and revision of proposals and such revisions may be permitted after submissions and before award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing proposers during the negotiation process.

- (4) ~~The~~ FOR AN RFP, THE award shall be made to the responsible and responsive proposer whose proposal is determined, in writing, to be the most advantageous to the town and best meets the overall needs of the town taking into consideration the evaluation of factors set forth in the request for proposals and this subsection (4). The town is not bound to award to the lowest cost (priced) RFP. No other factors or criteria may be used in the evaluation other than as set forth in the request for proposals or in this subsection (d). In addition to the criteria set forth in the request for proposals, the following criteria may be considered:
- a. Price.
 - b. The ability, capacity and experience of the proposer, its employees and subcontractors to perform the contract.
 - c. Whether the proposer can perform the contract promptly, or within the time specified, without delay or interference.
 - d. The quality of performance of previous contracts.
 - e. The sufficiency of the financial resources of the proposer to perform the contract.
 - f. The quality and adaptability of the materials, supplies or services to the particular use required.
 - g. The number and scope of conditions attached to the proposer's offer, and conformance of the proposer's offer to material aspects of the request for proposal.
- (5) The contract file shall contain the basis on which the award is made.

SEC. 2-361. - INFORMAL PURCHASE PROCEDURES.

- (a) *Purchases between \$10,000.00 and \$50,000.00.* Procurements of supplies and services of an estimated value less than \$50,000.00 but greater than \$10,000.00 shall be based on at least three written quotations, unless the purchase is made pursuant to subsection 2-357(b), and provided that such purchases are approved by the purchasing officer or the using department's director. Such purchases do not require the approval of the council and shall be in accordance with the adopted budget of the town.

- (1) The purchasing officer or using department's director shall solicit by E-MAIL, FAX, direct mail request, or by telephone, or by interview of prospective vendors.
 - (2) The purchasing officer or using department shall designate a central location for records of all awards and the responses submitted in competition thereon, and such records shall be part of the public record.
- (b) *Purchases of \$10,000.00 or less.* Procurements of supplies, equipment and services of a purchase price less than \$10,000.00 may be made without seeking quotations, provided that such purchases are approved by the purchasing officer or the using department's director. Such purchases do not require the approval of the council and must be in accordance with the adopted budget of the town.

SEC. 2-362. - CHANGE ORDERS.

- (a) ~~Change orders, including~~ EXCEPT AS PROVIDED IN PARAGRAPH (B), change orders ~~for construction projects,~~ that increase or decrease the contract amount may be approved and executed by the purchasing officer if the total of all change orders for the contract does not exceed ~~the lesser of ten percent of the original contract amount or \$50,000.00~~ \$100,000. ALL OTHER CHANGE ORDERS SHALL BE APPROVED BY THE COUNCIL.
- (b) ~~All final~~ FOR CONTRACTS GOVERNED BY ARIZONA REVISED STATUTES TITLE 34, ALL change orders need council approval ~~if council awarded contract.~~

SEC. 2-363. - SURPLUS SUPPLIES AND EQUIPMENT.

- (a) All departments and offices shall submit to the purchasing officer, at such time, and in such form as shall be prescribed, reports showing all supplies and equipment which are no longer used or which have become obsolete or worn out. The purchasing officer shall dispose of such supplies and equipment pursuant to the provisions of A.R.S. § 9-402.
- (b) Surplus supplies may be leased or donated to persons pursuant to a written contract approved by the council, provided that the town receives adequate consideration for the surplus supplies.

- (C) SURPLUS PROPERTY VALUED AT LESS THAN \$25 MAY BE DONATED TO A CHARITY APPROVED BY THE PURCHASING OFFICER PURSUANT TO A.R.S. § 12-941(D).

Sec. 2-364. - Purchasing supplies, materials and equipment from the mayor or any member of the council.

Pursuant to A.R.S. § 38-503(C), the town, through its council, may purchase supplies, materials and equipment not to exceed \$300.00 in cost in any single transaction and not to exceed a total of \$1,000.00 annually, from the mayor or any member of the council without using competitive public bidding procedures, according to an annually adopted town policy.

SEC. 2-365. - PROTESTS

- (A) AN UNSUCCESSFUL PROPOSER OR BIDDER MAY PROTEST A SOLICITATION OR A CONTRACT AWARD BY FILING A PROTEST IN WRITING WITH THE PURCHASING OFFICER NOT LESS THAN 72 HOURS BEFORE THE CLOSING DATE AND TIME OF THE SOLICITATION, OR WITHIN 72 HOURS AFTER ISSUANCE OF A NOTICE OF APPARENT LOW RESPONSIVE AND RESPONSIBLE BIDDER, OR A NOTICE OF INTENT TO AWARD. THE PROTEST SHALL INCLUDE THE FOLLOWING INFORMATION:
 - (1) THE NAME, ADDRESS AND TELEPHONE NUMBER OF THE PROTESTER;
 - (2) THE SIGNATURE OF THE PROTESTER OR ITS AUTHORIZED REPRESENTATIVE;
 - (3) A DETAILED STATEMENT OF THE LEGAL AND FACTUAL GROUNDS OF THE PROTEST, INCLUDING COPIES OF RELEVANT DOCUMENTS.
- (B) THE PURCHASING OFFICER SHALL EVALUATE THE PROTEST. PROTESTS IN CONNECTION WITH A SOLICITATION OR AN AWARD OF A CONTRACT INVOLVING AN AMOUNT LESS THAN \$100,000 SHALL BE DETERMINED BY THE PURCHASING OFFICER. IF THE PROTEST IS IN CONNECTION WITH A SOLICITATION OR AWARD OF A CONTRACT INVOLVING \$100,000 OR MORE, THE PURCHASING OFFICER SHALL ISSUE A WRITTEN RECOMMENDATION TO THE COUNCIL AFTER THE PROTEST HAS BEEN FILED. THE RECOMMENDATION SHALL CONTAIN THE BASIS FOR THE RECOMMENDATION. THE COUNCIL SHALL MAKE THE FINAL DECISION ON THE CONTRACT AWARD AT A PUBLIC MEETING.

SEC. 2-365 2-366. - Fingerprinting of prospective contractors and employees of contractors.

Prior to entering into a contract for services in an area designated as sensitive by the town manager, the town shall require that a contractor and employees of a contractor shall provide to the police chief or his designee, fingerprint identification. The police chief or his designee shall, pursuant to A.R.S. § 41-1750 and Public Law 92-184 section 902, forward those fingerprints accompanied by appropriate fees to the state department of public safety and the Federal Bureau of Investigation for the purpose of seeking criminal history information on such contractor and employees of such contractor. Information obtained shall be used only for the purpose of evaluating the fitness of prospective contractors and their employees to provide services to the town and shall otherwise remain confidential.